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June 3, 1994

VIA OVERNIGHT DELIVERY

Office of the Secretary
Federal Communications Commission
1919 M Street N.W., Room 222
Washington, D.C. 20554

JUN 6 1994

FCC MAIL ROOM

Re: Comments -- Phase Two of NPR; CC Docket No. 92-237

Dear Secretary:

Pursuant to Federal Communications Commission Rules, Sections 1.415 and 1.419, 47 C.F.R. §1.415 and §1.419, enclosed please find an original and four copies of Comments in regard to the above captioned matter filed on behalf of VarTec Telecom, Inc. ("VarTec"). Additionally, included with this filing are five extra copies of these Comments to be distributed to each individual Commissioner.

Thank you for your attention to this matter. Please direct any questions or communications regarding this filing to the undersigned counsel.

Respectfully submitted,

Michael G. Hoffman, Esq.
Vice President
Legal and Regulatory Affairs

Enclosures

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

JUN 6 1994

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In the Matter of
Administration of the
North American Dialing Plan

CC Docket No. 92-237
PHASE TWO

COMMENTS OF VARTEC TELECOM, INC.

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PHASE TWO

COMMENTS OF VARTEC TELECOM, INC.

Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, VarTec Telecom, Inc. ("VarTec" or the "Company") hereby submits these Comments in response to the Commission's Notice of Proposed Rulemaking (hereinafter NPR) in the above-captioned proceeding regarding Phase Two of the Docket (Adopted: March 30, 1994; Released April 4, 1994).

I. Introduction

VarTec is a fast-growing and dynamic long distance resale carrier incorporated in the State of Texas on February 27, 1989. The Company currently provides its long distance telecommunications services to several hundred thousand customers in more than twenty-five (25) states and the District of Columbia. VarTec's success has been directly attributable to its strategy of offering competitively-priced long distance services to residential and business end users who access the Company through VarTec's Feature Group D (FGD) Carrier Identification Codes (CICs). Long distance

telephone calls initiated through VarTec's CICs are routed to the Company by the Local Exchange Companies (LECs) with whom VarTec has previously purchased originating access and entered into billing and collection service agreements. A significant percentage of VarTec's substantial customer base and associated revenues are generated from callers currently utilizing the Company's Carrier Access Code (CAC) to reach VarTec for their long distance needs on a particular call basis rather than being presubscribed to VarTec's long distance service as their primary carrier. Thus, both the expansion of FGD CICs as well as the terms of the implementation process itself are matters of critical importance to the Company.

II. Existing Carriers Actively Using their Feature Group D CIC Assignments Should Be Grandfathered; Implementation of the Feature Group D CIC Expansion Plan Should Be Wholly Suspended, or, at least, Delayed Until Such Time as Absolutely Necessary

Undoubtedly, any change in the current composition of the FGD CICs will have a serious impact on VarTec's network, operations, revenues and overall marketing program. Expansion of the FGD CICs will likely result in increased consumer confusion, dialing time -- particularly for pulse dialed calls, dialing errors, and create significant expense to the Company in re-marketing its expansive customer base at great cost in order to educate consumers about this new dialing procedure. Moreover, an expanded CAC from five digits to seven digits may cause many of VarTec's existing "casual" (non-presubscribed) customers to cease dialing its CAC before placing a long distance call due to the increased time and effort required in dialing two additional digits in order to access

VarTec's service. Specifically, VarTec agrees with the previous comments expressed by carriers like Allnet which claim that a lengthened dialing code will increase the difficulties experienced in attracting customers who must dial such codes to use their preferred long distance carrier. VarTec is seriously concerned that its customers will perceive a seven digit code as too lengthy and cumbersome. Moreover, increasing the length of the CAC will actually benefit the LECs due to the fact that many consumers may resist dialing an expanded code and, instead, merely allow their intraLATA toll calls to be carried by their LEC. This scenario is especially damaging in jurisdictions where consumers lack the ability to pre-select alternative intraLATA carriers.

First, VarTec suggests that existing long distance telecommunications service providers which currently have been assigned FGD CICs and are actively utilizing those codes should be "grandfathered" from any expansion effort undertaken by the Commission. VarTec has expended millions of dollars in marketing costs to solicit consumers' long distance business accessed through its FGD CICs. VarTec's customers are both familiar and comfortable with its FGD CICs and regularly utilize the CAC to access the Company's services. Moreover, current technology in place at the LECs allows for the permanent co-existence of both five digit and seven digit CACs. The seven digit codes should merely supplement the existing five digit system rather than replacing it altogether. From a technical standpoint, it is both unnecessary and quite disruptive to phase out the five digit CACs subsequent to a short

transition period. While some may argue that to allow for such a dual system would unfairly discriminate against new carriers assigned the longer seven digit codes, VarTec submits that by altering the composition of the current code the Commission is unfairly discriminating against existing carriers that have already expended significant marketing dollars to solicit customers to utilize these codes in the hope of experiencing a return on their investments from these consumers at some point in the future.

In the alternative, VarTec postulates that prior to implementing an expansion of the FGD CICs, the Commission should mandate the reclamation of certain access codes. In light of the large number of recent mergers and acquisitions experienced in the long distance telecommunications industry, a significant number of FGD CICs have been assigned to various companies through BellCore that are currently unused or underutilized. Forced reclamation has the potential to make an expansion in the FGD CICs wholly unnecessary, or at a minimum, temporarily premature. Certainly, such action would result in the availability of many of the more than 810 previously assigned three digit codes and postpone the exhaustion of the current stock of three digit codes available for assignment. Thus, the actual conversion from three digit codes to four digit codes could be suspended until a future time when absolutely necessary, rather than occurring in the first half of 1995. Recaptured CICs could be reassigned to new entrants into the long distance industry as well as existing carriers on a "need-to-have" basis. VarTec urges the Commission to consider the fact

that the Company's assigned FGD CIC, like an "800" telephone number assigned to a business, is one of the most important assets of the Company which carries with it significant value. A change in the composition of the FGD CICs is not merely an objective, technical function without serious cost to the business. Any alteration of the CICs will be detrimental to the Company's operations and should only be implemented if and when positively required.

FGD CICs represent the ultimate in competition and freedom of choice to the end user. In essence, an easily dialed, consumer friendly CAC allows an end user the ability to select their toll carrier on an individual call-by-call basis. The expansion of the FGD CICs creates an increased burden for the consumer and ultimately works to lessen the competitive environment.

III. The Need for a Lengthy Transition Period

In the event that the Commission now finds it imperative to implement an expansion of the FGD CICs without grandfathering the existing CACs, VarTec supports the Commission's tentative finding that lengthening the transition period will significantly reduce the hardships imposed on pay phone providers, manufacturers, and PBX users. However, the Commission's NPR fails to acknowledge the hardships imposed on interexchange carriers (IXCs) by a shorter transitory period in which their customers would need to be identified, contacted, educated and persuaded to utilize the new, seven digit "replacement" CAC in order to access their preferred long distance carrier. IXCs like VarTec will have to develop the

ability to segregate out their casual customers who access their long distance services via 10XXX dialing from their presubscribed customers. These casual customers will need to be re-marketed by the Company. The Commission needs to provide the IXC's with as much time to re-market their customers as these carriers have had to initially solicit and obtain their business over the past ten years. There is a tremendous expense involved in both labor and resources with the re-marketing of the Company's substantial customer base in order to inform the consumer about its new, seven digit CAC. Logic dictates that the transition period be of sufficient length to allow companies like VarTec to re-market their customer base at a reasonable pace so as not to cause unnecessary hardship and financial loss to its operations. VarTec wholeheartedly supports the positions uniformly expressed by AT&T, MCI, and the other major players in the long distance industry, calling for a transition period of at least twelve years. While the LECs have uniformly proposed a shorter transition period of a mere eighteen months, their position seemingly has nothing to do with the cost of the transition period and everything to do with their desire to financially benefit from the consumer's confusion and lack of information regarding the expanded CAC that would inevitably follow a shorter transition period which failed to allow time for the re-marketing of the carrier's customer base.

Additionally, VarTec respectfully requests that the Commission consider mandating that the LECs provide customers of an IXC's CAC with information regarding the new, seven digit replacement code as

a means of education. Clearly, the LECs are in the best and most cost-effective position to enlighten consumers in this regard. While several avenues are available, VarTec proposes that the LECs be mandated to provide an intercept message to any customers dialing the five digit CAC during the twelve months following the transition period, thereby informing the customer of the carrier's seven digit replacement code. Such action by the Commission may dramatically reduce the hardship experienced by IXCs as a result of this change in dialing.

IV. Interstate, IntraLATA Toll Calls Should Be Delivered to the Customer's Preselected Long Distance Carrier Rather than being Screened and Completed by the Local Exchange Company

VarTec encourages the Commission to require that the LECs cease screening and completing interstate, intraLATA "1+" MTS calls and, instead, deliver those calls to the carrier preselected by the end user. VarTec supports the adoption of a "2-PIC" system whereby the customer chooses both an interLATA presubscribed carrier as well as an intraLATA presubscribed carrier, the latter of which may be neither the customer's interLATA presubscribed carrier nor its LEC if the customer so desires. Implementation of this policy not only provides more consumer choice, but also is consistent with current legislative and administrative efforts to allow for increased competition in both the local and long distance marketplaces, including the removal of current entry barriers restricting the Regional Bell Operating Companies from providing interLATA service. Although the Company contends that this action should occur

immediately, the interstate, intraLATA market should certainly be opened up to unbridled competition by or before the time when CACs are expanded to seven digits. Undoubtedly, the IXC's will lose significant revenues to the LEC monopolies due to consumer lethargy and resistance to dialing the new seven digit CAC to access their preferred carrier. Without question, expanding the CAC to seven digits will increase the difficulty that consumers experience in obtaining access to their preferred IXC and thus will heighten the discrimination faced by IXC's in competing for intraLATA traffic with the LEC's. Clearly, any expansion of the FGD CIC's will benefit the LEC's and increase their revenues and intraLATA market share by making the alternative access option (i.e., 10XXX) less desirable. Moreover, while the resulting revenues to the IXC's may be somewhat insignificant, opening up the interstate, intraLATA market to true competition would lessen the inevitable financial hardship that will be encountered by the IXC's as a result of the expanded CAC's.

The Commission should be at the forefront of progressive utilities regulation and provide enlightened guidance to the numerous state utility commissions currently considering the allowance of intrastate, intraLATA toll call presubscription. Certainly, consumers will benefit from increased competition in the interstate, intraLATA market, just as the public has seen the benefit of real choice in the interstate, interLATA market. Essentially, the addition of players in the interstate, intraLATA market other than the monopoly LEC will result in more competitive prices, better service offerings, and most importantly, increased

consumer choice. History indicates that rates offered to consumers in the highly competitive interstate, interLATA arena have significantly decreased over the past ten years since the break-up of the Bell System in 1984. At the same time, hundreds of competitive long distance carriers have emerged and developed a wide array of new telecommunications services to meet the needs and desires of the enlightened consumer. Ultimately, it is the consumer that is the winner of a truly competitive marketplace.

V. Conclusion

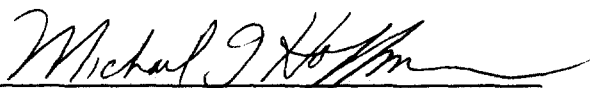
In summation, VarTec attributes much of its significant growth both in terms of sheer number of customers and revenues to its ability to provide competitively-priced long distance service to end users accessing the Company via its five digit CAC. In fact, a large preponderance of VarTec's customers are not presubscribed to the Company. Altering the current composition of the CAC will likely create numerous problems for VarTec, including, but not limited to, increased consumer confusion, dialing errors, customer attrition, as well as the need for VarTec to re-market millions of consumers in order to educate and inform its substantial customer base. Existing carriers actively using their assigned five digit FGD CICs should be permanently grandfathered. To accommodate growth in the industry, the Commission should adopt a policy requiring the reclamation of unused and underutilized codes. Implementation of the FGD CIC expansion plan should be postponed until absolutely necessary. If it is determined that expansion is

indispensable, the transition period in which both five and seven digit dialing will be permissive must be sufficiently lengthy to allow carriers ample time to identify and re-market their existing customers in order to inform the end users about its new seven digit CAC. After this transition period, the LECs should be required to provide customers with information regarding their carriers' new seven digit CAC through intercept messages in order to minimize undue hardship to existing IXCs that solicit casual customers. Lastly, interstate, intraLATA toll calls should be routed by the LECs to the end user's presubscribed preferred carrier in an effort to maximize true competition and consumer choice.

WHEREFORE, VarTec Telecom, Inc. respectfully urges the Commission to grant the relief requested herein.

Respectfully submitted,

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